



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 24, 2011

Mr. Floyd M. Akers
City Attorney
City of Pflugerville
P.O. Box 679
Pflugerville, Texas 78691-0679

OR2011-04037

Dear Mr. Akers:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 412068.

The Pflugerville Police Department (the "department") received a request for all records pertaining to the requestors and/or their home address. You state the department provided some of the requested information to the requestors with unspecified portions redacted. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information protected by other statutes, such as section 261.201 of the Family Code, which provides, in relevant part:

(a) [T]he following information is confidential, is not subject to public release under [the Act], and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

...

(k) Notwithstanding Subsection (a), an investigating agency . . . on request, shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect, or to the child if the child is at least 18 years of age, information concerning the reported abuse or neglect that would otherwise be confidential under this section. The investigating agency shall withhold information under this subsection if the parent, managing conservator, or other legal representative of the child requesting the information is alleged to have committed the abuse or neglect.¹

Fam. Code § 261.201(a), (k). You state incident report numbers 10120532 and 10050466 submitted as Exhibit C were used or developed in investigations by the department of alleged child abuse. *See id.* § 261.001(1) (defining “abuse” for purposes of Fam. Code ch. 261); *see also id.* § 101.003(a) (defining “child” for purposes of this section as person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes). Thus, we find these reports, and the related records we have marked in Exhibit B, are within the scope of section 261.201(a) of the Family Code. In this instance, the submitted information reflects the requestors may be the managing conservators or other legal representatives of the alleged child victim listed in the reports. You represent, however, that one of the requestors is suspected of committing the alleged abuse. As such, the information at issue may not be provided to the requestors pursuant to section 261.201(k). *Id.* § 261.201(k) (stating child’s managing conservator or other legal representative may not obtain information subject to section 261.201(a) concerning reported abuse or neglect of child if managing conservator or other legal representative is alleged to have committed abuse or neglect). Therefore, the department must withhold Exhibit C, and the related records we have marked in Exhibit B, under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.² *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute).

¹Although you cite to chapter 58 of the Family Code, section 261.201 of the Family Code is the appropriate statute for the substance of your arguments.

²As our ruling is dispositive for this information, we need not address your remaining argument against disclosure for incident report number 10120532.

We note the remaining information in Exhibit B contains a Texas driver's license number and a Texas identification number. Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license or personal identification document issued by a Texas agency is excepted from public release.³ Gov't Code § 552.130(a)(1), (3). We have marked the Texas driver's license and personal identification numbers at issue. The department must withhold this information under section 552.130 of the Government Code.⁴

In summary, the department must withhold Exhibit C, and the related records we have marked in Exhibit B, under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. The department must withhold the driver's license and personal identification numbers we have marked in Exhibit B section 552.130 of the Government Code. The department must release the remaining information.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

³The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

⁴We note this office issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

Ref: ID# 412068

Enc. Submitted documents

c: Requestor
(w/o enclosures)